

REMARKS

I. The Pending Claims and the Amendments To the Claims

With the entry of the amendments set forth above, Claims 1-11 and 18 stand withdrawn as directed to a non-elected invention. Claims 12-17 remain pending. Claim 12 is the only pending independent claim. Previously-presented Claims 19-23 remain pending, with each of Claims 19-23 being dependent claims. New claims 24 and 25 have been added. Thus, Claims 12-17 and 19-25 are all of the pending claims under examination.

In the listing of the claims set forth above, Claim 12 is the only previously pending claim that has been amended. Claim 12 is amended by the addition of the requirement that the patch does not cover a portion of the bag between the patch and the open top of the bag. Support for this amendment can be found, for example, at Page 4 lines 6-8 of the specification. Moreover, the patch bag illustrated in Figures 1, 2, 3, 4, 9, 9a, 10, and 10a (and those portions of the specification describing these figures) all illustrate the feature that the patch does not cover a portion of the bag between the patch and the open top of the bag.

New claims 24 and 25 depend from Claim 12 and recite ranges of free shrink. New Claim 24 recites the bag as being made from a film having a total free shrink at 185°F of from 10 to 120 percent, and the patch as being made from a film having a total free shrink at 185°F of from 10 to 120 percent. New Claim 25 recites the bag as being made from a film having a total free shrink at 185°F of from 15 to 80 percent, and the patch as being made from a film having a total free shrink at 185°F of from 15 to 80 percent. Support for new Claims 24 and 25 can be found on Page 4 lines 10-14 of the specification. The amendments to the claims include no new matter.

II. The Rejection of Claims 12-14 16, and 17 as Anticipated by OBERLE

In Section 3 of the 23 September 2005 Office Action, Claims 12-14, 16, and 17 are rejected under 35 USC 102(b) as anticipated by US Patent No. 4,855,183, to Oberle (“OBERLE”). The office action states that OBERLE discloses a cook-in bag having an A/B/C/D structure with an “outer layer/patch E” adhered to layer D with adhesive layer C. The office action goes on to comment on portions of OBERLE directed to the ability of the bag to withstand cook-in time and temperature conditions, and states that the heat seal is inherently capable of withstanding 70°C for at least 4 hours, and that the adhesive layer C is inherently able to maintain adhesion of patch E to the bag at a temperature of at least 60°C for a period of at least 4 hours or 10 hours, and that the film of OBERLE has a shrink of about 55% at 185°F, and that OBERLE discloses a bag having a seal layer containing polyamide.

In response, Applicants direct attention to Claim 12 as amended above. As amended, Claim 12 recites the patch as not covering a portion of the bag between the patch and the open top of the bag. Thus, the patch and the bag are discrete films, with the patch film being adhered to the bag film with an adhesive. A review of OBERLE reveals that the OBERLE cook-in bag is made from the OBERLE cook-in film. The OBERLE cook-in film is a multilayer film produced by coextrusion. See OBERLE at, for example, Column 8 line 46, Column 9 lines 25-26, 36, 38, 41, 56, and 63, Column 10 lines 6 and 7, Column 11 lines 48, 49, 51, and 54, Column 13 line 34, and Column 14 line 25. Clearly, OBERLE is teaching a coextrusion process. Those of skill in the art know that in a coextruded multilayer film, all layers are present at any given location of on the

film. OBERLE does not teach or suggest applying a patch film to a bag film so that a portion of the bag film is not covered by the patch film, as recited in amended Claim 12 set forth above. As a result, it is clear that OBERLE does not anticipate Claim 12 or any claims depending from Claim 12, i.e., rejected Claims 13, 14, 16, and 17.

III. The Rejection of Claims 12-14 16, and 17 as Anticipated by RAMESH

In Section 4 of the 23 September 2005 Office Action, Claims 12-14, 16, and 17 are rejected under 35 USC 102(e) as anticipated by US Patent No. 6,346,285, to Ramesh ("RAMESH"). The office action states that RAMESH discloses a cook-in bag having inner layers 12, 14, 16, and 20, and an "outer layer/patch 18" adhered to layer 20 by an adhesive layer, and that the inner layers are considered to be the equivalent to a bag and that outer layer 18 is considered equivalent to a patch. The office action goes on to comment on portions of RAMESH directed to the ability of the bag to withstand cook-in time and temperature conditions, and states that the heat seal is inherently capable of withstanding 70°C for at least 4 hours, and that the adhesive layer is inherently able to maintain adhesion of patch (18) to the bag at a temperature of at least 60°C for a period of at least 4 hours or 10 hours, and that the film of RAMESH has a shrink of about 20-50% at 185°F, and that RAMESH discloses a bag having a seal layer containing polyamide.

In response, Applicants again direct attention to Claim 12 as amended above. As amended, Claim 12 recites the patch as not covering a portion of the bag between the patch and the open top of the bag. Thus, the patch and the bag are discrete films, with the patch film being

adhered to the bag film with an adhesive, and with the patch film covering less than all of the bag. A review of RAMESH reveals that the RAMESH cook-in bag is made from the RAMESH cook-in film. The RAMESH cook-in film is a multilayer film produced by coextrusion. See RAMESH at, for example, Column 11 lines 45 and 60, Column 12 lines 61 and 65, Column 18 lines 1 and 3, Column 19 line 47, etc. As with OBERLE, it is clear that RAMESH is teaching a coextrusion process. RAMESH does not teach or suggest applying a patch film to a bag film so that a portion of the bag film is not covered by the patch film, as recited in amended Claim 12 set forth above. As a result, it is clear that RAMESH does not anticipate Claim 12 or any claims depending from Claim 12, i.e., rejected Claims 13, 14, 16, and 17.

IV. The Rejection of Claim 15 as Obvious over either OBERLE or RAMESH in view of SASANO et al

In Section 6 of the 23 September 2005 Office Action, Claim 15 is rejected under 35 USC 103(a) as unpatentable over OBERLE or RAMESH in view of European Publication No. 0,662,437, to Sasano et al ("SASANO '437"). The office action relies upon OBERLE and RAMESH as in the §102 rejections above, but states that neither OBERLE nor RAMESH discloses a polyurethane adhesive, but that SASANO '437 teaches a polyurethane adhesive for laminating multilayer composite films at a temperature of at least 135°F, and that the films have been developed for packing foods and that the polyurethane adhesive is excellent in adhesive properties, acid resistance, and hot water resistance. The office action concludes that it would have been obvious to modify the adhesive of OBERLE or RAMESH so that the adhesive comprises polyurethane in order to prevent the bag from coming apart during cook-in.

In response, Applicants again note that neither OBERLE nor RAMESH teaches or suggests a patch on a bag, wherein the patch does not cover a portion of the bag between the patch and the open top of the bag, as recited in amended Claim 12. Moreover, the office action does not state that SASANO '437 discloses this feature. As such, Applicants contend that the office action does not set forth a prima facie case of Claim 15, which depends from amended Claim 12.

V. The Rejection of Claims 19-23 as Obvious over either OBERLE or RAMESH in view of BRADY et al

In Section 7 of the 23 September 2005 Office Action, Claims 19-23 are rejected under 35 USC 103(a) as unpatentable over OBERLE or RAMESH in view of U.S. Patent No. 5,545,419, to Brady et al ("BRADY et al"). The office action relies upon OBERLE and RAMESH as in the §102 rejections above, but states that neither OBERLE nor RAMESH discloses sealing through the patch, but that BRADY et al describes a patch bag having a seal through the bag and not through the patch, as well as describing a patch bag having a seal through both the bag and the patch. The office action concludes that it would have been obvious to modify the bag of OBERLE or RAMESH that the seal is through the bag and not through the patch (Applicants' Claim 19), or through the bag and the patch (Applicants' Claim 20). so that the adhesive comprises polyurethane in order to prevent the bag from coming apart during cook-in.

In response, Applicants again note that neither OBERLE nor RAMESH teaches or suggests a patch on a bag, wherein the patch does not cover a portion of the bag between the patch and the open top of the bag, as recited in amended Claim 12. Although BRADY et al discloses the feature of

a patch which does not cover a portion of the bag between the patch and the open top of the bag, BRADY et al is directed to the packaging of fresh bone-in meat products which are to be shipped and stored while fresh. There is no teaching or suggestion in BRADY et al that the bone-in meat product is to be cooked while in the BRADY et al patch bag, just as there is no teaching or suggestion in OBERLE or RAMESH to place a patch on a bag, the patch covering only a portion of the bag. Thus, there is no motivation to combine OBERLE or RAMESH with BRADY et al. Those of skill in the art know that the heat-shrinkable cook-in films of OBERLE and RAMESH are designed for cook-in end use in the packaging of a boneless meat products. In stark contrast, the heat-shrinkable patch bag of BRADY et al is designed for use in the packaging of a bone-in fresh meat product, and is not designed to having the meat cooked while in the bag. Finally, Page 3 lines 4-6 of Applicants' specification states that "It has been found that the acrylic emulsion adhesive used to adhere patches in the prior art does not survive typical cook-in conditions." The adhesive disclosed in BRADY et al is an adhesive of the acrylic emulsion type referred to by Applicants, and is not suited for cook-in end use.¹ Based on all of these reasons, the office action fails to set forth a prima facie case of obviousness of any one or more of Claims 19-23, for all the reasons set forth above, including Applicants' reliance on the above amendment of independent Claim 12.

¹ Moreover, Applicants have already addressed the combination of BRADY et al and SASANO et al. See Pages 7-11 of the amendment filed 14 January 2005, which was followed a species restriction requirement (mailed 25 February 2005), the species election mailed 23 March 2005, and thereafter by the Notice of Allowance mailed 12 May 2005.

Conclusion

Applicants respectfully request reconsideration of the patentability of Claims 12-17 and 19-25, with a view towards allowance.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Rupert B. Hurley Jr.", written over a horizontal line.

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23 January 2006